

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE ENROLLED ACT No. 246

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-5-13, AS AMENDED BY P.L.272-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization: ~~that~~

(1) ~~that~~ has been in existence for at least ten (10) years; and

(2) ~~either that:~~

(A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization; ~~or~~

(B) is a home health agency licensed under IC 16-27-1;

(C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39); or

(D) is a supervised group living facility licensed under IC 12-28-5.

(b) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

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(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or non-public school.

SECTION 2. IC 12-17.2-3.5-4, AS ADDED BY P.L.247-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. A provider who:

- (1) has been convicted of a:
 - (A) felony; ~~or~~
 - (B) misdemeanor related to the health or safety of a child;**
 - (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or**
 - (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35; or**
- (2) fails to meet the requirements set forth in sections 5 through ~~12~~ **12.1** of this chapter;

is ineligible to receive a voucher payment.

SECTION 3. IC 12-17.2-3.5-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.1. (a) As used in this section, "individual" means:

- (1) a provider;
- (2) if a provider provides child care in the provider's home, an individual who resides with the provider and who is at least eighteen (18) years of age; or
- (3) an individual who is employed at the facility where a provider provides child care.

(b) If information obtained by a voucher agent under IC 31-33-17-6(7) indicates that an individual has been named as an alleged perpetrator, the following are ineligible to receive a voucher payment:

- (1) The individual.
- (2) A provider in whose home the individual resides if the provider provides child care in the provider's home.
- (3) A provider that employs the individual at the facility where the provider provides child care.

SECTION 4. IC 12-17.2-3.5-12, AS ADDED BY P.L.247-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) A provider shall, at the provider's expense, provide to the voucher agent a copy of a limited criminal history for:

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- (1) the provider;
 - (2) if the provider provides child care in the provider's home, any individual who resides with the provider and who is:
 - (A) at least eighteen (18) years of age; or
 - (B) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court; and
 - (3) any individual who is employed at the facility where the provider provides child care.
- (b) In addition to the requirement under subsection (a), a provider shall report to the voucher agent any:
- (1) police investigations;
 - (2) arrests; and
 - (3) criminal convictions;
- not listed on a limited criminal history provided under subsection (a) regarding any of the persons listed in subsection (a).
- (c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the provider receives the limited criminal history required under subsection (a) from the state police department if:**
- (1) the provider:**
 - (A) has applied for the limited criminal history required under subsection (a); and**
 - (B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency; and**
 - (2) the local criminal history does not reveal that an individual has been convicted of a:**
 - (A) felony;**
 - (B) misdemeanor related to the health or safety of a child;**
 - (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or**
 - (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.**
- (d) A provider is ineligible to receive a voucher payment if an individual for whom a limited criminal history is required under this section has been convicted of a:**
- (1) felony;**
 - (2) misdemeanor related to the health or safety of a child;**
 - (3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or**
 - (4) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;**

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until the individual is dismissed from employment at the facility or no longer resides with the provider.

SECTION 5. IC 12-17.2-3.5-12.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 12.1. (a) A provider shall, at the provider's expense, provide to the voucher agent a copy of drug testing results for:**

- (1) the provider;**
- (2) if the provider provides child care in the provider's home, any individual who resides with the provider and who is at least eighteen (18) years of age; and**
- (3) an individual who is employed at the facility where the provider provides child care.**

(b) If the drug testing results provided under subsection (a) indicate the presence of an illegal controlled substance, the provider is ineligible to receive a voucher payment.

SECTION 6. IC 12-17.2-3.5-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 14. (a) Notice of a determination made under this chapter must be provided under IC 4-21.5-3-6.**

(b) A person affected by a determination made under this chapter may seek administrative review under IC 4-21.5-3-7.

SECTION 7. IC 12-17.2-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3. (a) An applicant must apply for a child care center license on forms provided by the division.**

(b) An applicant must submit the required information as part of the application.

(c) The applicant must submit with the application a statement attesting that the applicant:

- (1) has not been convicted of:**
 - (A) a felony; ~~or~~**
 - (B) a misdemeanor relating to the health ~~and~~ or safety of children; ~~and~~**
 - (C) a misdemeanor for operating a child care center without a license under section 35 of this chapter; or**
 - (D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35; and**
- (2) has not been charged with:**
 - (A) a felony; ~~or~~**
 - (B) a misdemeanor relating to the health ~~and~~ or safety of children;**

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(C) a misdemeanor for operating a child care center without a license under section 35 of this chapter; or

(D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;

during the pendency of the application.

(d) An applicant must submit the necessary information, forms, or consents for the division to conduct a criminal history check.

(e) The applicant must do the following:

(1) Conduct a criminal history check of the applicant's employees and volunteers.

(2) Maintain records of each criminal history check.

SECTION 8. IC 12-17.2-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. **(a)** The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the division of child abuse or neglect (as defined in IC 31-9-2-14) by the applicant.

(2) A criminal conviction of **the applicant, or of an employee or a volunteer of the applicant, of any of the following:**

(A) A felony.

(B) A misdemeanor related to the health ~~and~~ or safety of a child.

(C) A misdemeanor for operating a child care center without a license under section 35 of this chapter.

(D) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the division that the applicant made false statements in the records required by the division.

(5) A determination by the division that the applicant previously operated a:

(A) child care center without a license under this chapter; or

(B) child care home without a license under IC 12-17.2-5.

(b) Notwithstanding subsection (a)(2), if:

(1) a license application is denied due to a criminal conviction of an employee or a volunteer of the applicant; and

(2) the division determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of the former employee or former volunteer does not require denial of a license application.

SECTION 9. IC 12-17.2-4-32 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 32. **(a)** The following constitute sufficient grounds for revocation of a license:

- (1) A determination by the division of child abuse or neglect (as defined in IC 31-9-2-14) by the licensee.
- (2) A criminal conviction of **the licensee, or of an employee or a volunteer of the licensee, of** any of the following:

- (A) A felony.
- (B) A misdemeanor related to the health or safety of a child.
- (C) A misdemeanor for operating a child care center without a license under section 35 of this chapter.**
- (D) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.**

- (3) A determination by the division that the licensee made false statements in the licensee's application for licensure.
- (4) A determination by the division that the licensee made false statements in the records required by the division.
- (5) A determination by the division that the licensee previously operated a:**

- (A) child care center without a license under this chapter; or**

- (B) child care home without a license under IC 12-17.2-5.**

(b) Notwithstanding subsection (a)(2), if:

- (1) a license is revoked due to a criminal conviction of an employee or a volunteer of the licensee; and**
- (2) the division determines that the employee or volunteer has been dismissed by the licensee;**

the criminal conviction of the former employee or former volunteer does not require revocation of a license.

SECTION 10. IC 12-17.2-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) An applicant must apply for a child care home license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting that the applicant has not been:

- (1) convicted of:
 - (A) a felony; ~~or~~
 - (B) a misdemeanor relating to the health ~~and~~ or safety of children; ~~and~~
 - (C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or**



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(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter; and

(2) charged with:

(A) a felony; ~~or~~

(B) a misdemeanor relating to the health ~~and~~ **or** safety of children;

(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or

(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter;

during the pendency of the application.

(d) An applicant must submit the necessary information, forms, or consents for the division to conduct a criminal history check on the applicant and the applicant's spouse.

(e) An applicant must do the following:

(1) Conduct a criminal history check of the applicant's:

(A) employees;

(B) volunteers; and

(C) ~~all~~ household members who are:

(i) at least eighteen (18) years of age; **or**

(ii) less than eighteen (18) years of age but have previously been waived from juvenile court to adult court.

(2) Maintain records of each criminal history check.

SECTION 11. IC 12-17.2-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. **(a)** The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the division of child abuse or neglect (as defined in IC 31-9-2-14) by the applicant.

(2) A criminal conviction of the applicant, of an employee or a volunteer of the applicant, or of a member of the applicant's household, of any of the following:

(A) A felony.

(B) A misdemeanor related to the health ~~and~~ **or** safety of a child.

(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35.

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter.

(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the division that the applicant made false

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statements in the records required by the division.

(5) A determination by the division that the applicant previously operated a:

(A) child care center without a license under IC 12-17.2-4; or

(B) child care home without a license under this chapter.

(b) Notwithstanding subsection (a)(2), if:

(1) a license application is denied due to a criminal conviction of:

(A) an employee or a volunteer of the applicant; or

(B) a member of the applicant's household; and

(2) the division determines that the:

(A) employee or volunteer has been dismissed by the applicant; or

(B) member of the applicant's household is no longer a member of the applicant's household;

the criminal conviction of the former employee, former volunteer, or former member does not require denial of a license application.

SECTION 12. IC 12-17.2-5-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 32. **(a)** The following constitute sufficient grounds for revocation of a license:

(1) A determination by the division of child abuse or neglect (as defined in IC 31-9-2-14) by the licensee.

(2) A criminal conviction of the licensee, of an employee or a volunteer of the licensee, or of a member of the licensee's household, of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35.

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter.

(3) A determination by the division that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the division that the licensee made false statements in the records required by the division.

(5) A determination by the division that the licensee previously operated a:

(A) child care center without a license under IC 12-17.2-4; or

(B) child care home without a license under this chapter.

(b) Notwithstanding subsection (a)(2), if:

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- (1) a license is revoked due to a criminal conviction of:**
 - (A) an employee or a volunteer of the licensee's; or**
 - (B) a resident of the licensee's household; and**
 - (2) the division determines that the:**
 - (A) employee or volunteer has been dismissed by the licensee; or**
 - (B) member of the licensee's household is no longer a member of the licensee's household;**
- the criminal conviction of the former employee, former volunteer, or former member does not require revocation of a license.**

SECTION 13. IC 31-33-17-6, AS AMENDED BY P.L.36-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. Upon request, a person or an organization may have access to information contained in the registry as follows:

- (1) A law enforcement agency or local child protective service may have access to a substantiated report.
- (2) A person may have access to information consisting of an identifiable notation of a conviction arising out of a report of child abuse or neglect.
- (3) Upon submitting written verification of an application for employment or a consent for release of information signed by a child care provider, a person or an agency may obtain the following information contained in the child abuse registry regarding an individual who has applied for employment or volunteered for services in a capacity that would place the individual in a position of trust with children less than eighteen (18) years of age or regarding a child care provider who is providing or may provide child care for the person's child:
 - (A) Whether a child was found by a court to be a child in need of services based on a report of child abuse or neglect naming the applicant, volunteer, or child care provider as the alleged perpetrator.
 - (B) Whether criminal charges were filed against the applicant, volunteer, or child care provider based on a report of child abuse or neglect naming the applicant, volunteer, or child care provider as the alleged perpetrator.
 - (C) Whether a court has issued an arrest warrant for the applicant, volunteer, or child care provider based on a report of child abuse or neglect in which the applicant, volunteer, or child care provider is named as the alleged perpetrator.
- (4) A person may have access to whatever information is contained in the registry pertaining to the person, with protection

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for the identity of:

- (A) the person who reports the alleged child abuse or neglect;
and

- (B) any other appropriate person.

(5) A person or an agency to whom child abuse and neglect reports are available under IC 31-33-18 may also have access to information contained in the registry.

(6) If a child care provider provides child care in the provider's home, upon submitting a consent for release of information signed by an individual who is at least eighteen (18) years of age, who resides with the child care provider, and who may have direct contact with children for whom the provider provides child care, a person may obtain the following information contained in the child abuse registry regarding the individual:

- (A) Whether a child was found by a court to be a child in need of services based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

- (B) Whether criminal charges were filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

- (C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.

(7) A voucher agent (as defined in IC 12-17.2-3.5-2) may have access to the following information contained in the registry regarding an individual (as defined in IC 12-17.2-3.5-4.1) for purposes of determining the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3):

- (A) Whether a child has been found by a court to be a child in need of services based on a report of child abuse or neglect naming the individual as the alleged perpetrator.**

- (B) Whether criminal charges have been filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.**

- (C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.**

The voucher agent shall not disclose information obtained under this subdivision.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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